



## City of North Port

### ORDINANCE NO. 2018-60

**AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, REPEALING ORDINANCE NO. 2017-13, THEREBY AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA, CHAPTER 46 – OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE II – OFFENSES INVOLVING PUBLIC PEACE AND ORDER, DIVISION 2. – NOISE, SECTIONS 46-40 AND 46-42 TO REPEAL THE EXEMPTION FOR PUMPS, AIR-CONDITIONING, AND AIR HANDLING EQUIPMENT IN PLANNED DEVELOPMENTS WITH CERTAIN SIDE SETBACKS; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on October 10, 2017, the City Commission adopted Ordinance No. 2017-13, amending Chapter 46 of the Code of the City of North Port, Article II, Division 2. Noise, Sections 46-40 and 46-42 by adding definitions and providing exemptions for pumps, air-conditioning, and air handling equipment in planned developments with certain side setbacks; and

**WHEREAS**, on November 5, 2018, the City Commission directed staff to draft an ordinance to remove subsection (a) from Section 46-42(13) of the Code of the City of North Port, and such direction thereby rendered certain definitions unnecessary, and repealed all code revisions contained in Ordinance No. 2017-13; and

**WHEREAS**, the City of North Port has broad home-rule powers to enact ordinances which are not inconsistent with general or special law for the purposes of protecting the public health, safety, and welfare of its citizens; and

**WHEREAS**, the City Commission finds that the proposed amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:**

#### **SECTION 1 - FINDINGS:**

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

**SECTION 2 – REPEAL AND ADOPTION:**

2.01 The City Commission hereby repeals Ordinance No. 2017-13. Accordingly, the City Commission hereby approves and adopts the following amendments to the Code of the City of North Port, Florida:

**“Chapter 46 – OFFENSES AND MISCELLANEOUS PROVISIONS**

...

**ARTICLE II. – OFFENSES INVOLVING PUBLIC PEACE AND ORDER**

...

**DIVISION 2. – NOISE**

**Sec. 46-40 - Definitions.**

(a) *Generally.*

As used in this division, the following terms shall have the meanings indicated:

...

~~*Planned development.* A development that is designed and developed as a cohesive, integrated unit under single ownership or unified control which permits flexibility in building siting, mixture of housing types or land uses, clustering, common functional open space, the sharing of services, facilities and utilities and protection of environmental and natural resources.~~

...

~~*Side setback.* A setback between any structure and the side lot line extending from the required front setback to the required rear setback and being the minimum horizontal distance between a side lot line and the side of the structure.~~

...

**Sec. 46-42. - Specific prohibitions.**

In addition to the general prohibitions set forth in section 46-41 above and the maximum permissible sound levels set forth in this division and unless otherwise exempted by this division or by any other act of this governing body, the following specific acts or the causing or permitting thereof are hereby declared in violation of this division:

...

(13) Pumps, air-conditioning or air-handling equipment and other continuously operating equipment: operating or permitting the operation of any pump, air-conditioning, air-handling or other continuously operating equipment in such a

manner as to exceed any of the following sound levels when measured as specified in the code of recommended practices incorporated herein:

Measurement Location	Sound Level [db(A)]
Any point on neighboring property line	60
Centering of nearest neighboring patio or porch	55
Outside a neighboring living area window nearest the equipment location	55

~~a. The following is exempted from the noise regulations of section 46-42(13) of this chapter: Any pumps, air conditioning, or air handling equipment located in an approved planned development where the side setback is less than seven and one-half feet from the real property line.~~

...”

**SECTION 3 – CONFLICTS:**

3.01 In the event of any conflicts between the provisions of this ordinance and any other ordinance, the provisions of this ordinance shall prevail to the extent of such conflict.

**SECTION 4 – SEVERABILITY:**

4.01 If any section, subsection, sentence, clause, phase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5 – CODIFICATION:**

5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. These editorial notations shall not appear in the codified text.

**SECTION 6 – EFFECTIVE DATE:**

6.01 This ordinance shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session the 22nd day of January 2019.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida on the second and final reading in public session this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

CITY OF NORTH PORT, FLORIDA

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CHRISTOPHER HANKS  
MAYOR

ATTEST:

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KATHYRN PETO  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

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AMBER L. SLAYTON  
CITY ATTORNEY